

COPY

In The Matter Of:
Matthew Gilmer v.
T.R. Franklin, Inc., et al.

Jason Sheer

Vol. 2

April 18, 2012

Vowell & Jennings, Inc.
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EXHIBIT

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Page 308

1 the reasons you chose that for your Tin
2 Roof II?

3 MR. ELBERT: Object to the form
4 of the question.

5 THE WITNESS: Yes. You know it's
6 a suburb. I mean most people are playing golf
7 and shopping at the mall and playing ball with
8 their kids in their yards.

9 BY MR. SMITH:

10 Q. At the time of your initial
11 negotiations and up to the final signing of the
12 lease, did you have any discussions with the
13 representatives of the -- I'll call them the
14 owners -- regarding providing outside security?

15 A. No. There was never discussion about
16 outside security because it's so unnecessary.

17 Q. From the time you opened in 2007 until
18 the Gilmer incident occurred, had you had any
19 problems in the parking lot before in the form
20 of fights or altercations?

21 A. Never.

22 Q. And since the Gilmer incident, have
23 you had any problems in the parking lot in the
24 form of fights or physical altercations?

25 A. No.

Page 309

1 Q. You didn't request security, outside
2 security, at the time of your lease
3 negotiations, did you?

4 A. No.

5 Q. And as a matter of fact, you haven't
6 requested any outside security even today, have
7 you?

8 A. No.

9 Q. And the reason is because based upon
10 your 18 years of experience and the experience
11 that you have had in this actual location,
12 there's no need for any outside security, is
13 there?

14 MR. ELBERT: Object to the form
15 of the question.

16 THE WITNESS: That's correct.

17 BY MR. SMITH:

18 Q. After the incident occurred, did you
19 give -- or not you, you in the Tin Roof sense,
20 did anyone give notice to owners that the
21 incident had occurred?

22 A. Yes. I mean, we spoke to the owners.
23 I don't remember when that was, but we spoke to
24 them and told them after our investigation what
25 we found out happened in the parking lot.

Page 310

1 Q. Would that have been after the lawsuit
2 was filed?

3 A. That's very possible. I don't know
4 the timing of when we spoke with them.

5 Q. If I represent to you that my clients
6 indicate their first knowledge of the incident
7 was at the time that they were served this
8 lawsuit, would that be consistent with your
9 recollection?

10 MR. ELBERT: Objection to form.

11 THE WITNESS: You know, I don't
12 remember when we spoke with them.

13 BY MR. SMITH:

14 Q. Did you at any time have a meeting
15 with the representatives of owners about the
16 incident?

17 A. We were -- I don't know if you'd call
18 it a meeting, but we had a face-to-face
19 discussion with them about the incident and
20 told them all the details that we knew after
21 our investigation in the space next door to the
22 Tin Roof. We talked with them for quite a
23 while about -- about that.

24 Q. So the meeting was not only you talked
25 about potentially leasing the additional space,

Page 309

Page 311

1 but the incident as well?

2 A. Yes.

3 Q. Now, you had mentioned yesterday that
4 your security -- I don't want to go as far to
5 say policy and procedure -- but is for your
6 security people not to go into the parking lot;
7 is that correct, if there's an incident in the
8 parking lot?

9 A. Well, our policy is that, you know, as
10 far as being a Tin Roof employee, you handle
11 our premises, which is inside our four walls
12 and our patio.

13 Now, if I think any of our employees saw
14 something happening in the parking lot like what
15 happened on this night, a fight out in the parking
16 lot, I think they are going to take their Tin Roof
17 employee hat off and just act as good citizens and
18 go out there and try and help.

19 Q. And that's what they did in this case,
20 didn't they?

21 MR. ELBERT: Object to the form
22 of the question.

23 THE WITNESS: That's exactly what
24 they did.

25 BY MR. SMITH: